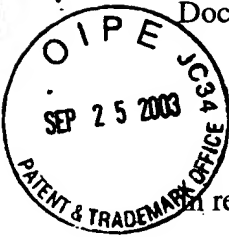


Application No.: 09/943,383

Docket No.: 005920 USA/PMG/PCTRL/JW

PATENT/OFFICIAL

2823
✓
#12/Election
10/5/03
✓



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

SHANMUGASUNDRAM et al.

Serial No. 09/943,383

Filed: August 31, 2001

For: IN SITU SENSOR BASED CONTROL OF SEMICONDUCTOR PROCESSING
PROCEDURE

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Group Art Unit: 2823

Examiner: William D. Coleman

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RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Honorable Commissioner for Patents
Washington, D.C. 20231

Sir:

This communication is in response to the Office Action mailed March 25, 2003, having a one-month shortened statutory period of response set to expire by April 25, 2003. A Petition for Extension of Time, together with the requisite fee for same, is submitted herewith, thereby extending the period of response to September 25, 2003. The following remarks are respectfully submitted.

PROVISIONAL ELECTION

Applicant hereby provisionally elects Species I (claims 1-11) for prosecution, with
traverse.

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TRAVERSE

On March 25, 2003, the Examiner issued an Election of Species requirement requiring Applicants to elect a single disclosed species for prosecution on the merits from a group of eight identified species.

On September 2, 2003, the undersigned conducted a telephonic meeting with the Examiner to discuss the instant Election requirement and to provisionally elect a species for prosecution. In particular, the undersigned suggested that the instant action improperly imposed an eight-way election of species requirement whereas a two-way restriction requirement. In response, the Examiner acquiesced, requested that the undersigned traverse the instant action on those grounds, and indicated that the instant application was improperly classified in Art Unit 2823. The Examiner then indicated that upon receipt of a response traversing the instant election of species requirement, an attempt would be made to reclassify the application in the proper art unit. This response follows.

As discussed in the telephonic meeting of September 2, 2003, because the instant application does not relate to multiple distinct species, this election of species requirement is respectfully traversed.

Specifically, according to MPEP 806.04(f), "[c]laims to be restricted to different species must be mutually exclusive."

That section of the MPEP also provides that for two claims to satisfy this requirement of mutual exclusivity: 1) the limitations recited by the first claim must be directed to a first species but not to a second species; and 2) the limitations recited by the second claim must be directed to

the second species but not to a first species. Specifically, MPEP 806.04(f) states:

The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first.

In the present invention, no such case exists. Specifically, the groups of claims identified by the Examiner are not directed to mutually exclusive subject matter.

For these reasons, Applicant respectfully requests that the Examiner reconsider and withdraw the instant election of species requirement.

AUTHORIZATION

No fee is believed to be required except as otherwise indicated in the attached Petition for an Extension of Time. However, the Commissioner is hereby authorized to charge any additional fees should any be required for this submission, or credit any overpayment to deposit account no. 08-0219.

In the event that an Extension of Time in addition to that requested in the instant petition for an Extension of Time is required, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,

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